

Dennis J. Stewart (SBN 99152)
GUSTAFSON GLUEK PLLC
600 B Street
17th Floor
San Diego, CA 92101
Telephone: (619) 595-3299
dstewart@gustafsongluek.com

Attorney for Plaintiff Jim Riley

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SIGURD MURPHY and KEITH UEHARA, on
behalf of himself and all others similarly
situated,

Plaintiffs,

v.

CELESTRON ACQUISITION, LLC,
NANTONG SCHMIDT OPTO-ELECTRICAL
TECHNOLOGY CO. LTD.,
NINGBO SUNNY ELECTRONIC CO. LTD.
OLIVON MANUFACTURING CO. LTD.,
OLIVON USA, LLC,
SKY-WATCHER CANADA,
SKY-WATCHER USA,
SUZHOU SYNTA OPTICAL TECHNOLOGY
CO., LTD.,
SW TECHNOLOGY CORP.,
SYNTA CANADA INTERNATIONAL
ENTERPRISES LTD., and
SYNTA TECHNOLOGY CORP. OF
TAIWAN,

Defendants.

Case No. 5:20-cv-04049

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

Related Case:

Riley et al. v. Celestron Acquisition LLC et al.,
Case No.: 3:20-cv-06527

I. INTRODUCTION

Pursuant to the Northern District of California's Civil Local Rule 3-12, Plaintiff Jim Riley submits this administrative motion to consider whether *Riley* should be related to the actions pending before this court, *Sigurd Murphy et al. v. Celestron Acquisition LLC, et al.*, Case No. 5:20-cv-04049 (the *Murphy* Action), *Daniel Hightower v. Celestron Acquisition LLC*, Case No. 5:20-cv-03639 (N.D. Cal. June 1, 2020) (the *Hightower* Action), *Spectrum Scientifics LLC, et al. v. Celestron Acquisition LLC, et al.*, Case No. 5:20-cv-03642 (the *Spectrum* Action), and *Brewer et al. v. Celestron Acquisition LLC, et al.*, Case No. 5:20-cv-04823 (the *Brewer* Action).

Following a jury verdict in *Optronic Technologies, Inc. v. Ningbo Sunny Electronic Co., Ltd., et al.*, Case No. 5:16-cv-06370-EJD (the *Orion* Action), the same counsel for Plaintiff in the *Orion* Action filed two class actions concerning the same anticompetitive acts and conducts at issue in the *Orion* Action: a case on behalf of a proposed class of indirect purchaser plaintiffs, the *Hightower* Action, and a case on behalf of a proposed class of direct purchaser plaintiffs, the *Spectrum* Action. The *Hightower* Action was assigned to District Judge Edward J. Davila and the *Spectrum* Action was assigned to District Judge James Donato. On June 17, 2020, a case on behalf of a proposed class of indirect purchaser plaintiffs, the *Murphy* Action, was filed alleging claims similar to the *Hightower* Action and the *Spectrum* Action. The *Murphy* Action was assigned to Magistrate Judge Laurel Beeler. On July 17, 2020, a case on behalf of a proposed class of indirect purchaser plaintiffs, the *Brewer* Action, was filed alleging claims similar to the *Hightower* Action and the *Spectrum* Action. The *Brewer* Action was assigned to Magistrate Judge Susan van Keulen.

On June 30, 2020, the Court in the *Orion* Action denied a motion to relate the *Hightower* Action, the *Spectrum* Action, and the *Murphy* Action. On June 30, 2020, the *Spectrum* Action and the *Murphy* Action were ordered to be related cases to the *Hightower* Action. On July 1, 2020, the *Spectrum* Action was re-assigned to Judge Edward J. Davila. On July 10, 2020, the *Murphy* Action was re-assigned to Judge Edward J. Davila. On July 29, 2020, the *Brewer* Action was ordered to be related cases to the *Hightower* Action and was re-assigned to Judge Edward J. Davila.

1 The *Riley* Action, like the *Brewer*, *Spectrum*, and *Murphy* Actions, concerns the same, or
 2 substantially similar allegation to those in the underlying *Hightower* Action. Given that the
 3 requirements of Civil Local Rule 3-12 have been met, plaintiff now respectfully requests this
 4 Court issue the proposed order formally relating this action to the *Brewer*, *Hightower*, *Spectrum*,
 5 and *Murphy* Actions.

6 **II. RELATIONSHIP OF THE ACTIONS**

7 Under Local Rule 3-12(a), an action is related when: (1) “The actions concern substantially
 8 the same parties, property, transaction or event”; and (2) “It appears likely that there will be an
 9 unduly burdensome duplication of labor and expense or conflicting results if the cases are
 10 conducted before different Judges.”

11 As set forth in Local Rule 3-12(a)(1), the *Hightower*, *Spectrum*, *Murphy* and *Brewer*
 12 Actions involve substantially the same parties, property, transaction or event, as each concern the
 13 same alleged antitrust violations, similar defendants and co-conspirators, witnesses, and evidence.
 14 The *Riley* Action, like the *Brewer* and *Murphy* Actions, asserts claims for violations of Sections
 15 1 and 2 of the Sherman Act; Section 7 of the Clayton Act; violations of the state antitrust laws of
 16 Arizona, California, Connecticut, the District of Columbia, Illinois, Iowa, Kansas, Maine,
 17 Michigan, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York,
 18 North Carolina, North Dakota, Oregon, South Dakota, Tennessee, Utah, Vermont, West Virginia,
 19 Wisconsin; violations of the state consumer protection laws of Arkansas, California, the District
 20 of Columbia, Florida, Hawaii, Massachusetts, Missouri, Montana, New Mexico, New York, North
 21 Carolina, Rhode Island, South Carolina, Vermont; and an additional claim for the disgorgement
 22 of the profits through which the Defendants were unjustly enriched. The *Hightower* Action and
 23 the *Spectrum* Action similarly assert claims for violations of Sections 1 and 2 of the Sherman Act
 24 as well as the state antitrust and consumer protection laws of California.

25 As set forth in Local Rule 3-12(a)(2), it appears likely that there will be an unduly
 26 burdensome duplication of labor and expenses or the possibility of conflicting results if the cases
 27 are conducted before different judges. Therefore, it will be more efficient for all cases to proceed
 28 before the same judge so that these analyses and determinations are made by one Court.

1
2 **III. CONCLUSION**

3 This Action satisfies the criteria of Local Rule 3-12(b). Plaintiff Jim Riley therefore
4 respectfully requests the *Riley* Action be deemed related to the *Brewer*, *Hightower*, *Spectrum*,
5 and *Murphy* Actions and that it be assigned to the Honorable Edward J. Davila.

6
7 DATED: September 24, 2020

Respectfully submitted,

8
9 /s/Dennis J. Stewart
Dennis J. Stewart
10 **GUSTAFSON GLUEK PLLC**
600 B Street
11 17th Floor
San Diego, CA 92101
12 Telephone: (619) 595-3299
dstewart@gustafsongluek.com

13
14 Daniel E. Gustafson
Daniel C. Hedlund
15 Michelle J. Looby
Joshua J. Rissman
Daniel J. Nordin
16 Mary M. Nikolai
GUSTAFSON GLUEK PLLC
17 Canadian Pacific Plaza
120 South Sixth Street, Suite 2600
18 Minneapolis, MN 55402
Telephone: (612) 333-8844
19 mlooby@gustafsongluek.com
dhedlund@gustafsongluek.com
20 jrisman@gustafsongluek.com
dnordin@gustafsongluek.com
21 mnikolai@gustafsongluek.com

22 David S. Corwin
23 **Corwin Law Group, LLC**
1034 S. Brentwood Blvd.
24 Suite 1490
St. Louis, MO 63117
25 Telephone: (314) 685-8849
Facsimile: (314) 287-4583
26 dcorwin@corwinlawgroup.com